

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**



MARTIN LUTHER KING JR. FEDERAL BLDG. & U.S. COURTHOUSE  
50 WALNUT STREET, P.O. BOX 419  
NEWARK, NJ 07101-0419  
(973) 645-6340

WILLIAM J. MARTINI  
JUDGE

**LETTER OPINION**

January 4, 2008

Frank Holahan  
McElroy, Deutsch, Mulvaney & Carpenter, LLC  
40 West Ridgewood Avenue  
Ridgewood, NJ 07450

*(Attorney for Plaintiff)*

Barry Alan Kozyra  
Kozyra & Hartz, LLC  
75 Eisenhower Parkway  
Roseland, NJ 07068-1777

*(Attorney for Defendant)*

**RE: World Finer Foods, Inc., et al. v. Archway Cookies, LLC.  
Civ. No. 03-1277 (WJM)**

Dear Counsel:

This letter is in reply to the parties' joint letter of December 28, 2007.

The primary criticism the Court expressed in its December 17 letter was with counsels' phone call on the eve of trial requesting that they have another opportunity to confer with the Court regarding settlement in the morning before selecting the jury. This request in the Court's opinion should have been made a few days or even a day earlier, which would have prevented the Court from summoning jurors to the courthouse and allowed for a more orderly settlement discussion. Without reciting a detailed procedural

history of the settlement efforts in this case, the Court did participate in those efforts on several occasions and would have made and indeed did make itself available for such purposes when requested.

Further, your suggestion that it's the norm that settlements commonly occur at the proverbial courthouse steps has simply not been this Court's experience. In fact, such last minute settlements occur with decreasing frequency in today's modern practice. Indeed they are quite rare.

Finally, you were perhaps not aware but the Court did visit the jurors and thanked them for their patience and their willingness to serve.

s/ William J. Martini  
**William J. Martini, U.S.D.J.**